

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

February 27, 2009

Charles R. Fulbruge III
Clerk

No. 08-40224
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOSE ANTONIO ALDACO-TORRES

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:08-CR-1-1

Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:*

The Federal Public Defender (FPD) appointed to represent Jose Antonio Aldaco-Torres moved for leave to withdraw and filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). This court previously issued an order identifying a nonfrivolous issue regarding whether the district court properly calculated the advisory guidelines range of imprisonment. *United States v. Aldaco-Torres*, No. 08-40224, slip op. at 1-2 (5th Cir. Nov. 4, 2008). The court

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

denied counsel's motion to withdraw and ordered counsel to brief the nonfrivolous issue and any other meritorious issues. *Id.* The FPD moved for reconsideration, explaining why the issue that the court identified was without merit. The FPD also requested that this court grant the previously-filed *Anders* motion. On December 1, 2008, this court issued an order granting the motion for reconsideration and granting the motion to withdraw. *United States v. Aldaco-Torres*, No. 08-40224, slip op. (5th Cir. Dec. 1, 2008). As this appeal presents no nonfrivolous issues, the APPEAL IS DISMISSED. *See* 5th Cir. R. 42.2.